

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:

SBC Petition for Relief from Regulation
Pursuant to Section 706 of the
Telecommunications Act and 47 U.S.C.
§ 160 or ADSL Infrastructure and Service

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CC Docket No. 98-91
DA 98-111

TO: The Commission

COMMENTS OF CAMPAIGN FOR TELECOMMUNICATIONS ACCESS

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I. Introduction and Identification

The Campaign for Telecommunications Access (the Campaign) works to assure that new telecommunications technologies will be available to, usable by, and affordable for all citizens, regardless of where they live and regardless of what disability or other condition they may have that is a barrier to their using some kinds of equipment. The Campaign is composed of American Council of the Blind, Missouri Alliance of Area Agencies on Aging, Missouri Association for the Deaf, Missouri Council of the Blind, National Silver Haired Congress, Presidents' Club for Telecommunications Justice, and Paraquad, the latter being the independent living center located in St. Louis, Missouri, that assists people with all kinds of disabilities to integrate fully into society. The Campaign has filed comments in other proceedings of the Commission and participated in other telecommunications regulatory proceedings.

The participants in the Campaign are leaders and organizations that are substantially run, respectively, by older adults and people with disabilities and devoted to ensuring that older adults and people with disabilities--and all citizens for that matter--have the opportunity to live independent, productive lives and have the accommodations that allow them to be as fully integrated into the community as possible. In working to see that new and existing telecommunications technologies will be available to, usable by, and affordable for all citizens, the Campaign is an extension of that mission in the area of telecommunications.

II. The Source of the Campaign's Interest

New telecommunications technology, when fully distributed to the citizenry and usable by and affordable for all, promises numerous new ways for older adults and people with disabilities--and all other citizens--to maintain their independence and lead productive lives. The issue of what telecommunications services will be available, usable, and affordable affect a considerable portion of the Nation.

In 1996, 33 million Americans were 65 years of age or older. *Statistical Abstract of the United States*, 117th Edition, 48 (Berman Press 1997) [*Abstract*]. This category of older Americans will double by the year 2030. *Id.* at 17. See also, AARP, *A Profile of Older Americans: 1995*. This population shift will also affect the demographics of the labor force. In 1996, adults age 65 and over represented 11.6 percent of employed persons, leaving 87.8 percent out of the employment pool. *Abstract* at 48.

An even larger pool of Americans have disabilities. The conservative estimate is that 15 percent of Americans have disabilities. H. Kaye, *Disability Watch: The Status of People with Disabilities in the United States* 11 (1997). That estimate is in part based on 1992 U.S. Census figures, which shows that 49 million people in America had disabilities at that time. President's Committee on Employment of People with Disabilities, *Profit from our Experience* (Oct. 1995). Only 31 percent of people with disabilities from ages 16 to 64 had jobs in 1994, while some 79 percent of people with disabilities who were not working wanted to work. *Id.*; National Organization on Disability, *Report* (Fall 1994). Among many other reasons given, 38 percent said they do not have the necessary education, training, or skills to get a job and 28 percent lacked accessible transportation.

Policymakers commonly ignore the need to assist older adults and people with disabilities to be in the mainstream of society, leaving these population segments underserved. For example, a Missouri study of the needs of older adults showed, among other things, that 67 percent of older Missourians who perceive a need for information services do not get it, 59 percent who perceive a need for elderly care information do not get it, 37 percent who perceive a need for transportation services do not get them. Missouri Department of Social Services, Division of Aging, *Needs Assessment Study, 1994 Statewide Report*.

The promise of present and future telecommunications very much affects the lives and independence of people with disabilities and older adults. Consider, for example, today's telecommunications technologies. Such things as Caller ID screens allow a deaf person to know who is calling even if the caller does not have the sense or knowledge to use a TDD or the Relay Service to call the deaf person. The deaf person can view the screen, return the call via the Relay Service if he¹ wants, and complete a communication that would have been impossible before the introduction of that technology. Meanwhile, other even newer technology voices the contents of the Caller ID screen, letting people who are blind--and others who just have their hands full--in on the benefits of Caller ID.

Consider, for example, the health and safety we entrust to the telecommunications systems. We assume a 911 call, or burglar alarm call to a monitor, or call to a medical care monitor will virtually always go through and go through the first time. Older adults live in

¹Occasionally, in these comments, a male pronoun is used to reference a hypothetical individual. In such occasions, that pronoun is used in a generic sense to refer to a hypothetical individual of either gender.

their homes longer today, rather than moving into nursing homes, because they can rely on the telephone to call for help when they need it. The same is true of many people with disabilities.

This proceeding, however, is about tomorrow's telecommunications technologies. And they foretell even greater promise for the Campaign's constituents. Many of the problems people with disabilities and older adults face with obtaining education, transportation, jobs, health care, and other services will be assuaged or eliminated by the advanced telecommunications technologies that Congress encouraged in enacting the Act. Consider a few. Telecommuting will allow people with transportation problems to stay in their homes and neighborhoods and work anywhere in the world. Telemedicine will allow people to remain home and independent even if they live some distance from their doctors. Distance learning will allow students to attend the university from their living rooms. People who lack the physical strength to pick up a book will be able to read books located around the world with the punch of a button.

Videoconferencing will allow deaf people to sign to one another. It will allow deaf students to attend any class and obtain deaf interpretation through a screen in the classroom and a remote interpreter located miles away. It will allow grandparents to watch their grandchildren grow even though they may live a continent or more apart.

The examples are inexhaustible. Two fundamental facts emerge. Advanced telecommunications technology will overcome serious transportation and communications barriers that today keep some people from being educated, trained, cared for, employed, out of nursing homes, and integrated into their communities. And, these advanced

technologies often imply broadband solutions that allow quick transfer of massive amounts of data.

III. The Core Issue

The advances envisioned here will only work, however, if that advanced technology comes to all people with disabilities, older adults, and all Americans. Therefore, the Campaign's foremost concern in the telecommunications re-regulation that has gone on over the past several years is this: Does each proposal guarantee that advanced technologies will reach, and current technologies will continue to reach, our constituents--geographically, technologically, and affordably--even though our constituents are spread all over America?

In this proceeding, that question translates into what Commission decision will bring one mechanism of broadband technology--ADSL--to people with disabilities, older adults, and all Americans as fast as possible. In the Campaign's opinion, the fastest roll out of the technology will be achieved if the Commission forbears under § 706 from regulating the operation of this service.

IV. The Commission Should Ordinarily Be Biased in Favor of the Roll Out of New Technologies

The common problem people with disabilities and older adults face in seeking to break down the barriers to their full involvement in society is they may require--read, have demand for--new technologies that broader and wealthier parts of the population do not. Still, those wealthier and broader segments of the population may develop a demand for a given new technology for substantially different reasons.

To illustrate this, consider the telephone itself. Society wanted the telephone for its convenience. At the time of its introduction, we had means for communication that seemed to work just fine. The telephone simply added convenience.

But, for people with disabilities it meant much more. A blind person who could not independently bus, buggy, or walk across town to visit with a relative or business associate, or who had substantial difficulty in doing so, could now communicate as he never could before--and, perhaps even more important, as well as everyone else.² In that respect, that person who is blind became a fully enfranchised member of society.

The significance of this observation is this: On the one hand, introduction of new technologies to society at large often eliminates barriers to access for people with disabilities and older adults. But, on the other, the new technologies would often not be introduced just to eliminate those barriers. It was because the wealthy and influential--and subsequently the general population--wanted telephones that the local telephone companies built them virtually everywhere, not because they were a great advantage to people who are blind. Still, the fact of virtually universal telephone service today is a great advantage for allowing people with disabilities and older adults to live independent and productive lives.

This experience promises to play again and again for the future. We know as a matter of fact today that some promised new technologies will significantly increase the opportunities for independence and productivity for older adults and people with

²Indeed, more than one friend who is blind refer to the telephone as the "great equalizer," because, in telephone conversations, people who can see have no more visual cues than do people who are blind.

disabilities. When advanced medical care can be delivered to people's homes and neighborhoods, many will be able both to obtain effective and prompt health care and to live at home and with their friends, family, and neighbors. When interactive video can be delivered to people's homes and neighborhoods, people will be able to advance their formal education, fully participating in reading, work assignments, class discussion, perhaps even laboratory experiments, all without having to overcome what are sometimes insurmountable transportation obstacles.

But, by the same token, until the newly introduced technologies are widely adopted throughout society, they are commonly of little use to people with disabilities. A video telephone is of no use as a classroom tool unless it is both in the classroom and in the neighborhoods where people with disabilities and older adults are found. Still, new technologies will not spread among the populace unless there is demand for them by consumers at large. It is not regulation, but customer response, that dictates whether a product or service stays in the market. Regulation can, however, bar or slow establishment of a service or product in the market.

This reality dictates the strategy the Campaign argues for in this and most other forbearance applications under § 706 of the Communications Act. In order to foster rapid introduction of technologies that will reduce or eliminate barriers to access for people with disabilities and older adults, we need to foster the rapid introduction of *all* benign new telecommunications technologies. We need to allow the marketplace to explore the utility of a new product or service as quickly as possible. By definition, regulation slows the

introduction of technologies.³ By definition, the Commission should be strongly disposed in favor of forbearing from regulating new technologies' introduction.

No doubt some will argue that the inherent evil of local, traditionally monopolistic telephone companies means they should never be allowed to roll out new technologies in an unregulated way. The petition of the Association for Local Telecommunications Services, FCC CC Docket No. 98-78, seeks to press in that direction.

While the concern is commonly overblown, the Campaign acknowledges that the Commission should address the question whether a former monopoly seriously threatens exercise of monopoly power as it decides whether to grant the forbearance applied for. If, however, it is clear that the new product or service may be provided by others, then the product is in a competitive market, and that should be the end of the question whether to regulate. At that point, the antitrust laws are there to provide all the protection needed.

Members of the Campaign were quite concerned with the Commission's prior action regarding implementation of § 706. For example, in ¶¶ 1266-68 of The First Report & Order In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Docket No. 96-325, 11 FCC Rcd 15499, released August 8, 1996, the Commission declined to include in its decision attention to innovation in the telecommunications industry. The Campaign draws the Commission's attention to that troublesome decision. The Campaign hopes that the Commission has no intention to

³Regulation inherently implies that some decisionmaker other than the innovator will participate in the decision whether and/or how to introduce a new technology. As such, regulation inevitably implies there will be at least two review processes and two decisions--one by the business making the introduction and at least one by the regulators. Two decisional processes, obviously, take more time than one.

relegate innovation in telecommunications technology to a second class consideration. The Campaign suggests that one of the most important things the Commission can do for all Americans, including, importantly, people with disabilities and older adults, is to implement policies that foster the quick and easy roll out of new telecommunications technologies.

V. The Commission Should Approve This Application

By this application, Southwestern Bell proposes to roll out ADSL service. ADSL service promises to be a significant aid in eliminating those barriers that the Campaign addresses. From the Campaign's perspective, ADSL service will--along with cable modems, satellite links, and perhaps other technologies--bring broadband capacity into many neighborhoods and homes. That broadband capacity is essential to the elimination of barriers to participation in society that the Campaign has discussed above.

While it promises to be remarkably affordable compared to earlier broadband delivery systems, ADSL is far from a complete solution to the problem. Because of technical limitations noted by Southwestern Bell, the service will be available to some--not all, but some--customers located within about three miles of Southwestern Bell offices. Cable modem capacity will probably reach more people than ADSL service. Still, both are services that will reach out to substantial portions of the residential population where people with disabilities and older adults will be able to make special use of the capacity. Moreover, it will not be an inexpensive service.

Still, this is the first step to rolling out this form of broadband technology. It will be one way that deaf people will be able to have real time American Sign Language

conversations from home to home or at least community center to community center. It will allow local production of university courses and expert medical services. It will allow deaf children to stay in the local classroom while sign language interpreters can listen to class discussions and sign by video telephone back into the classroom from studios miles away.


It is not the panacea. It is not the only way. But, ADSL is a broadband service in a competitive world of broadband services that may spread throughout our society and improve the lives of us all, including the older adults and people with disabilities among us. For that reason, the Commission should enthusiastically agree to forbear from regulating this new technology.

VI. Conclusion

Someday broadband services will be delivered to Americans by a variety of systems and a variety of competitors. When that happens, the Campaign will be back here, or in Congress, or in corporate headquarters to press for guarantees that these broadband technologies will reach all people with disabilities, all older adults, all Americans--geographically, technologically, and affordably--even though they are spread all over America.

Today, the Campaign says let the roll out of this broadband technology begin in earnest, right away. It says some have to have the technology before all can. It says the Commission should forbear from imposing the wasteful and retarding barriers of regulation.

Respectfully submitted,



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Certificate of Service

I hereby certify that a copy of these Comments were served upon the individuals listed on the attached Service List by mailing the same to them, postage prepaid, this June 23, 1998.

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